

108TH CONGRESS
1ST SESSION

S. 56

To restore health care coverage to retired members of the uniformed services.

IN THE SENATE OF THE UNITED STATES

JANUARY 7, 2003

Mr. JOHNSON introduced the following bill; which was read twice and referred to the Committee on Armed Services

A BILL

To restore health care coverage to retired members of the uniformed services.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Keep Our Promise to
5 America’s Military Retirees Act”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

8 (1) No statutory health care program existed
9 for members of the uniformed services who entered
10 service before June 7, 1956, and retired after serv-

1 ing a minimum of 20 years or by reason of a service-
2 connected disability.

3 (2) Recruiters for the uniformed services are
4 agents of the United States Government and em-
5 ployed recruiting tactics that allowed members who
6 entered the uniformed services before June 7, 1956,
7 to believe they would be entitled to fully-paid lifetime
8 health care upon retirement.

9 (3) Statutes enacted in 1956 entitled those who
10 entered service on or after June 7, 1956, and retired
11 after serving a minimum of 20 years or by reason
12 of a service-connected disability, to medical and den-
13 tal care in any facility of the uniformed services,
14 subject to the availability of space and facilities and
15 the capabilities of the medical and dental staff.

16 (4) After 4 rounds of base closures between
17 1988 and 1995 and further drawdowns of remaining
18 military medical treatment facilities, access to
19 “space available” health care in a military medical
20 treatment facility is virtually nonexistent for many
21 military retirees.

22 (5) The military health care benefit of “space
23 available” services and medicare is no longer a fair
24 and equitable benefit as compared to benefits for
25 other retired Federal employees.

1 (6) The failure to provide adequate health care
2 upon retirement is preventing the retired members
3 of the uniformed services from recommending, with-
4 out reservation, that young men and women make a
5 career of any military service.

6 (7) Although provisions enacted in the Floyd D.
7 Spence National Defense Authorization Act for Fis-
8 cal Year 2001 (Public Law 106–398) extended cov-
9 erage under the TRICARE program to medicare eli-
10 gible military retirees age 65 and older, those provi-
11 sions did not address the health care needs of mili-
12 tary retirees under the age of 65.

13 (8) The United States should establish health
14 care that is fully paid by the sponsoring agency
15 under the Federal Employees Health Benefits pro-
16 gram for members who entered active duty on or be-
17 fore June 7, 1956, and who subsequently earned re-
18 tirement.

19 (9) The United States should reestablish ade-
20 quate health care for all retired members of the uni-
21 formed services that is at least equivalent to that
22 provided to other retired Federal employees by ex-
23 tending to such retired members of the uniformed
24 services the option of coverage under the Federal
25 Employees Health Benefits program.

1 **SEC. 3. COVERAGE OF MILITARY RETIREES UNDER THE**
 2 **FEDERAL EMPLOYEES HEALTH BENEFITS**
 3 **PROGRAM.**

4 (a) EARNED COVERAGE FOR CERTAIN RETIREES
 5 AND DEPENDENTS.—Chapter 89 of title 5, United States
 6 Code, is amended—

7 (1) in section 8905—

8 (A) by striking subsection (d);

9 (B) by redesignating subsections (e), (f),
 10 (g), and (h) as subsections (d), (e), (f), and (g),
 11 respectively; and

12 (C) by adding at the end the following new
 13 subsection (h):

14 “(h) For purposes of this section, the term ‘employee’
 15 includes a retired member of the uniformed services (as
 16 defined in section 101(a)(5) of title 10) who began service
 17 before June 7, 1956. A surviving widow or widower of
 18 such a retired member may also enroll in an approved
 19 health benefits plan described by section 8903 or 8903a
 20 of this title as an individual.”; and

21 (2) in section 8906—

22 (A) in subsection (b), by striking para-
 23 graph (4) and inserting the following new para-
 24 graph (4):

25 “(4) In the case of an employee described in section
 26 8905(h) or the surviving widow or widower of such an em-

1 ployee, the Government contribution for health benefits
 2 shall be 100 percent, payable by the department from
 3 which the employee retired.”; and

4 (B) in subsection (g)—

5 (i) in paragraph (1), by striking
 6 “paragraphs (2) and (3)” and inserting
 7 “paragraph (2)”; and

8 (ii) by striking paragraph (3).

9 (b) COVERAGE FOR OTHER RETIREES AND DEPEND-
 10 ENTS.—(1) Section 1108 of title 10, United States Code,
 11 is amended to read as follows:

12 **“§ 1108. Health care coverage through Federal Em-**
 13 **ployees Health Benefits program**

14 “(a) FEHBP OPTION.—The Secretary of Defense,
 15 after consulting with the other administering Secretaries,
 16 shall enter into an agreement with the Office of Personnel
 17 Management to provide coverage to eligible beneficiaries
 18 described in subsection (b) under the health benefits plans
 19 offered through the Federal Employees Health Benefits
 20 program under chapter 89 of title 5.

21 “(b) ELIGIBLE BENEFICIARIES; COVERAGE.—(1) An
 22 eligible beneficiary under this subsection is—

23 “(A) a member or former member of the uni-
 24 formed services described in section 1074(b) of this
 25 title;

1 “(B) an individual who is an unremarried
2 former spouse of a member or former member de-
3 scribed in section 1072(2)(F) or 1072(2)(G) of this
4 title;

5 “(C) an individual who is—

6 “(i) a dependent of a deceased member or
7 former member described in section 1076(b) or
8 1076(a)(2)(B) of this title or of a member who
9 died while on active duty for a period of more
10 than 30 days; and

11 “(ii) a member of family as defined in sec-
12 tion 8901(5) of title 5; or

13 “(D) an individual who is—

14 “(i) a dependent of a living member or
15 former member described in section 1076(b)(1)
16 of this title; and

17 “(ii) a member of family as defined in sec-
18 tion 8901(5) of title 5.

19 “(2) Eligible beneficiaries may enroll in a Federal
20 Employees Health Benefit plan under chapter 89 of title
21 5 under this section for self-only coverage or for self and
22 family coverage which includes any dependent of the mem-
23 ber or former member who is a family member for pur-
24 poses of such chapter.

1 “(3) A person eligible for coverage under this sub-
2 section shall not be required to satisfy any eligibility cri-
3 teria specified in chapter 89 of title 5 (except as provided
4 in paragraph (1)(C) or (1)(D)) as a condition for enroll-
5 ment in health benefits plans offered through the Federal
6 Employees Health Benefits program under this section.

7 “(4) For purposes of determining whether an indi-
8 vidual is a member of family under paragraph (5) of sec-
9 tion 8901 of title 5 for purposes of paragraph (1)(C) or
10 (1)(D), a member or former member described in section
11 1076(b) or 1076(a)(2)(B) of this title shall be deemed to
12 be an employee under such section.

13 “(5) An eligible beneficiary who is eligible to enroll
14 in the Federal Employees Health Benefits program as an
15 employee under chapter 89 of title 5 is not eligible to en-
16 roll in a Federal Employees Health Benefits plan under
17 this section.

18 “(6) An eligible beneficiary who enrolls in the Federal
19 Employees Health Benefits program under this section
20 shall not be eligible to receive health care under section
21 1086 or 1097 of this title. Such a beneficiary may con-
22 tinue to receive health care in a military medical treatment
23 facility, in which case the treatment facility shall be reim-
24 bursed by the Federal Employees Health Benefits pro-

1 gram for health care services or drugs received by the ben-
 2 eficiary.

3 “(c) CHANGE OF HEALTH BENEFITS PLAN.—An eli-
 4 gible beneficiary enrolled in a Federal Employees Health
 5 Benefits plan under this section may change health bene-
 6 fits plans and coverage in the same manner as any other
 7 Federal Employees Health Benefits program beneficiary
 8 may change such plans.

9 “(d) GOVERNMENT CONTRIBUTIONS.—The amount
 10 of the Government contribution for an eligible beneficiary
 11 who enrolls in a health benefits plan under chapter 89 of
 12 title 5 in accordance with this section may not exceed the
 13 amount of the Government contribution which would be
 14 payable if the electing beneficiary were an employee (as
 15 defined for purposes of such chapter) enrolled in the same
 16 health benefits plan and level of benefits.

17 “(e) SEPARATE RISK POOLS.—The Director of the
 18 Office of Personnel Management shall require health bene-
 19 fits plans under chapter 89 of title 5 to maintain a sepa-
 20 rate risk pool for purposes of establishing premium rates
 21 for eligible beneficiaries who enroll in such a plan in ac-
 22 cordance with this section.”.

23 (2) The item relating to section 1108 at the begin-
 24 ning of such chapter is amended to read as follows:

“1108. Health care coverage through Federal Employees Health Benefits pro-
 gram.”.

- 1 (3) The amendments made by this subsection shall
- 2 take effect on January 1, 2004.

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